



792956

LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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03/06/2020 10:39 AM

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Senator Perry moved the following:

**Senate Amendment (with title amendment)**

Between lines 505 and 506

insert:

Section 11. Subsection (7) of section 497.459, Florida Statutes, is amended to read:

497.459 Cancellation of, or default on, preneed contracts; required notice.—

(7) NOTICE TO PURCHASER OR LEGALLY AUTHORIZED PERSON.—

(a) To ensure the performance of unfulfilled preneed contracts, if any obligation of the preneed licensee remains to



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12 be fulfilled under the contract, then upon the occurrence of the  
13 earliest of any of the following events, a preneed licensee  
14 shall provide to the purchaser or to the beneficiary's legally  
15 authorized person written notice of the preneed licensee's  
16 intent to distribute funds as described herein or otherwise in  
17 accordance with the terms of the preneed contract, if any such  
18 terms exist ~~obligation of the preneed licensee remains to be~~  
19 ~~fulfilled under the contract:~~

20 1. Five years have passed since the confirmed death of the  
21 beneficiary.

22 ~~2.1.~~ Fifty years have passed after the date of execution of  
23 the preneed contract by the purchaser.

24 ~~3.2.~~ The beneficiary of the preneed contract attained, or  
25 would have attained if living, ~~attains~~ the age of 105 years ~~of~~  
26 ~~age or older.~~

27 ~~3.~~ ~~The social security number of the beneficiary of the~~  
28 ~~preneed contract, as shown on the contract, is contained within~~  
29 ~~the United States Social Security Administration Death Master~~  
30 ~~File.~~

31  
32 By July 1, 2021, and at least every 10 years thereafter, a  
33 preneed licensee shall complete an analysis of each of its  
34 preneed contracts to determine if subparagraph 1., subparagraph  
35 2., or subparagraph 3. applies.

36 (b)1. The notice in paragraph (a) must be provided by  
37 certified mail, registered mail, or permitted delivery service,  
38 return receipt requested, to the last known mailing address of  
39 the purchaser or the beneficiary's legally authorized person,  
40 whichever is applicable, as provided to the preneed licensee. If



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41 the notice is returned as undeliverable within 30 calendar days  
42 after the preneed licensee sent the notice, the preneed licensee  
43 ~~trustee~~ shall perform a diligent search and inquiry to obtain a  
44 different address for the purchaser or the beneficiary's legally  
45 authorized person, whichever is applicable. For purposes of this  
46 subparagraph, any address known and used by the purchaser or the  
47 beneficiary's legally authorized person, whichever is  
48 applicable, for sending regular mailings or other communications  
49 from the purchaser or the beneficiary's legally authorized  
50 person, whichever is applicable, to the preneed licensee or any  
51 address produced through a current address service or searchable  
52 database shall be included with other addresses produced from  
53 the diligent search and inquiry, if any. If the preneed  
54 licensee's trustee's diligent search and inquiry produces an  
55 address different from the notice address, the preneed licensee  
56 ~~trustee~~ shall mail a copy of the notice by certified mail,  
57 registered mail, or permitted delivery service, return receipt  
58 requested, to any and all addresses produced as a result of the  
59 diligent search and inquiry.

60 2. If the purchaser or the beneficiary's legally authorized  
61 person, whichever is applicable, fails to respond to such notice  
62 within 120 days after delivery of the last mailed notice under  
63 subparagraph 1., the funds held in trust must be distributed  
64 within 60 days after the end of the 120-day period and in  
65 accordance with the terms of the preneed contract, the trust  
66 agreement, and any applicable provision provisions of chapter  
67 717, as follows:

68 a. The principal deposited into trust must be remitted to  
69 the Unclaimed Property Trust Fund.



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70           b. Any additional funds in trust must be remitted to the  
71 preneed licensee.

72  
73 The names of the purchaser and the beneficiary of any preneed  
74 contract for which funds were distributed must be provided to  
75 the Division of Unclaimed Property at the time such funds are  
76 remitted to the Unclaimed Property Trust Fund.

77           (c) A purchaser or a beneficiary that receives the notice  
78 required under this subsection retains all rights to fulfillment  
79 or cancellation of the preneed contract. Should the distribution  
80 described in subparagraph (b)2. occur before the confirmed death  
81 of the beneficiary, the licensee remains responsible for the  
82 fulfillment, reactivation, or refund of the preneed contract at  
83 the option of either the purchaser or beneficiary. If the  
84 purchaser or beneficiary requests that the preneed contract be  
85 fulfilled, reactivated, or refunded as set forth in this  
86 subsection, the licensee is entitled to receive the principal  
87 funds on the preneed contract which it previously paid into the  
88 Unclaimed Property Trust Fund ~~This subsection does not affect a~~  
89 ~~purchaser's rights to cancel the preneed contract and receive a~~  
90 ~~refund or a preneed licensee's obligations to refund established~~  
91 ~~by this chapter.~~

92           (d) This section does not apply to burial rights or  
93 interment rights or to the burial services or the merchandise  
94 associated with such burial or interment rights.

95           (e) The licensing authority shall have authority to adopt  
96 rules for the review and approval of notice forms used by  
97 preneed licensees to provide notice under this subsection.

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99 ===== T I T L E A M E N D M E N T =====

100 And the title is amended as follows:

101 Delete line 50

102 and insert:

103 made by the act; amending s. 497.459, F.S.; revising  
104 conditions under which a preneed licensee must provide  
105 certain persons a notice of intent to distribute funds  
106 under a preneed contract; requiring preneed licensees  
107 to complete a certain analysis at specified intervals;  
108 requiring a preneed licensee, rather than the trustee,  
109 to conduct a search and inquiry under certain  
110 circumstances; specifying the timeframe in which  
111 certain funds held in trust must be distributed;  
112 specifying the distribution of such funds; requiring  
113 that certain names be provided to the Division of  
114 Unclaimed Property at a certain time; providing  
115 construction and applicability; amending s. 552.081,  
116 F.S.; revising